

BEFORE THE IDAHO BOARD OF TAX APPEALS

JAYO DEVELOPMENT, INC.,)	
)	
Appellant,)	APPEAL NO. 14-A-1024
)	
v.)	FINAL DECISION
)	AND ORDER
ADA COUNTY,)	
)	
Respondent.)	
)	
)	
)	

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Ada County Board of Equalization denying a request for property tax exemption regarding real property described by Parcel No. S0635428300. The appeal concerns the 2014 tax year.

This matter came on for hearing November 14, 2014 in Boise, Idaho before Hearing Officer Cindy Pollock. Attorney Michael Jones represented Appellant. Chief Deputy Assessor Tim Tallman represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

The issue on appeal concerns whether the subject property qualifies for the business inventory exemption pursuant to Idaho Code § 63-602W; the site improvement exemption.

The decision of the Ada County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$5,242,500. Appellant contends the correct land value, after application of the site improvement exemption, is \$1,177,875.

The subject property is a 10.45 acre residential tract located in Meridian, Idaho. The parcel is improved with roadways, sidewalks, and utility hookups for eighteen (18) individual residential lots. For 2014, Appellant timely applied for the site improvement exemption provided

in Idaho Code § 63-602W, which generally exempts as much as 75% of the market value of undeveloped subdivision lots held by the developer as business inventory. The site improvement exemption application was initially approved, however, the exemption was soon thereafter lost as a result of Appellant starting construction of two (2) residences during the first quarter of 2014.

Appellant contended the site improvement exemption should not have been lost for the entire 10.45 acre tract, but rather lost for only the two (2) lots upon which construction had commenced during the first quarter of 2014. The basis for Appellant's position was that as of January 1, 2014, the effective date of valuation and assessment, subject was not a single parcel, but was instead a nineteen (19) lot subdivision (Somerset), comprised of eighteen (18) individual saleable lots and one (1) common area parcel. As such, Appellant argued the site improvement exemption should not have been lost for the lots which remained unimproved until after the first quarter of 2014. Respondent countered as of January 1, 2014, the subdivision lots did not exist because there was an error in the plat recorded in November 2013. Specifically, the wrong owner signed the original plat, which error was not corrected until the end of January 2014, when an amended plat was recorded. Respondent therefore concluded subject was a single parcel on January 1, 2014, and exemption on the whole tract was lost at the time construction of the two (2) residences commenced.

Confusion regarding the validity of the November 2013 Somerset plat stemmed from a series of quitclaim deeds¹ recorded during 2013. Involved in the various filings were three (3)

¹Along with the filings related to Somerset, several filings were also made regarding a separate subdivision (Winters Run), which is not the subject of the current appeal.

distinct, but related parties; Jayo Development, Inc. (Appellant), Doug and Delores Jayo, and Jayo Investments, Inc. The timeline of relevant recordings follows.

<u>Record Date</u>	<u>Instrument No.</u>	<u>Instrument Type</u>	<u>Grantor</u>	<u>Grantee</u>
7/12/2013	113078249	Quitclaim Deed	Jayo Development	Doug & Delores
7/12/2013	113078250	Quitclaim Deed	Doug & Delores	Jayo Investments
7/12/2013	113079661	Quitclaim Deed	Doug & Delores	Jayo Investments
10/25/2013*	113118889	Quitclaim Deed	Jayo Development	Doug & Delores
10/25/2013*	113118890	Quitclaim Deed	Doug & Delores	Jayo Investments
11/22/2013	113127682	Plat for Somerset (<i>signed by Jayo Development</i>)		
12/27/2013**	113137059	Quitclaim Deed	Doug & Delores	Jayo Development
12/27/2013***	113137171	Quitclaim Deed	Doug & Delores	Jayo Development
12/30/2013	113137573	Quitclaim Deed	Jayo Development	Jayo Investments
1/29/2014	114007421	Amended Somerset plat (<i>signed by Jayo Development and Jayo Investments</i>)		

*re-recording of 7/12/2013 quitclaim deeds to correct property legal description.

**re-re-recording of 7/12/2013 quitclaim deeds to change grantee name from Jayo Investment, Inc. to Jayo Development Inc.

***re-re-recording of 10/25/2013 quitclaim deeds to add recording information from previous re-record of Instrument No. 113118890

Keying on the recording of the Somerset plat on November 22, 2013, Respondent determined Appellant was not the owner on that date, but rather Jayo Investments was the owner. As such, Appellant's signature on the Somerset plat was argued by Respondent to invalidate the plat, thereby leaving subject as a single parcel on January 1, 2014, not a nineteen (19) lot subdivision.

Appellant questioned Respondent's authority to evaluate the validity of a recorded instrument and argued the assessor, pursuant to Idaho Code § 63-209, is required to use the

official plat, which is the recorded plat. In Appellant's view, the fact an amended plat was later recorded to correct the potential ownership issue is irrelevant because the plat of record on January 1, 2014 reflected Appellant (Jayo Development, Inc.) as the owner.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

There are two (2) primary issues presented in this appeal; 1) whether Respondent correctly assessed subject as a single residential tract, and 2) whether subject qualifies for the site improvement exemption.

Idaho Code § 63-203 provides, "all property within the jurisdiction of this state, not expressly exempted, is subject to appraisal, assessment and property taxation." Such assessment is to occur annually on January 1 of the relevant tax year. See Idaho Code § 63-205. The controlling date in this appeal is January 1, 2014, and the relevant inquiry therefore must center on the status of subject on this date.

Before determining subject's status on the assessment date, it is necessary to first begin with the recording activity which occurred throughout the latter half of 2013. On July 12, 2013, the subject property was conveyed by quitclaim deed from Doug and Delores Jayo to Jayo Investments, Inc. The same was re-recorded to correct the property's legal description on October 25, 2013. Again Doug and Delores were the grantors and Jayo Investments, Inc. was the grantee. On November 22, 2013, the Somerset plat signed by Appellant (Jayo

Development, Inc.) was recorded. This is the point at which the ownership issue originated.

In forming a subdivision, Idaho Code § 50-1302 requires “every *owner* creating a subdivision . . . shall cause the same to be surveyed and a plat made thereof which shall particularly and accurately describe and set forth all the streets . . . and other essential information, and shall record said plat.” (Emphasis added). Further, “the *owner or owners* of the land included in said plat shall make a certificate containing the correct legal description of the land, with the statement as to their intentions to include the same in the plat . . . which certificate shall be acknowledged before an officer duly authorized to take acknowledgments and shall be indorsed on the plat.” Idaho Code § 63-1309 (emphasis added). *Owner* is defined in Idaho Code § 63-1301(5) as, “the proprietor of the land, (having legal title).” The courts have repeatedly found the owner to be the person holding record title. “Throughout the statutes dealing with the taxation of real and personal property in Idaho runs the concept that the owner of the record title is the person to be considered as the taxpayer.” *Russet Potato Co. Vv. Board of Equalization*, 93 Idaho 501, 505, 465 P.2d 625, 629 (1970).

In the case at bar, the Somerset plat was executed with a “Certificate of Owners” signed by Appellant. The problem is Appellant did not hold title to the land included in the Somerset plat on November 22, 2013. Rather, Jayo Investments, Inc. was the record owner pursuant to the July 12, 2013 quitclaim deed from Doug and Delores Jayo to Jayo Investments, Inc.

It is well understood a valid plat can only be executed by the owner or owners of the real property included in the plat. *Armand v. Opportunity Management Co., Inc.*, 155 Idaho 592, 599, 315 P.3d 245, 252 (2013) (citing *Allen v. Blaine County*, 131 Idaho 138, 953 P.2d 578 (1998)). “It is axiomatic that one person cannot unilaterally restrict the use of another’s land simply by

drafting and recording a plat to that land.” *Armand* at 599. Because Appellant did not own the land when the Somerset plat was executed, such plat did not conform to the relevant recording requirements in Idaho Code, and is thus invalid. An invalid plat can be cured by ratification of the land owner(s) in the subdivision, however no such ratification by Jayo Investments, Inc. occurred in this instance. Having found the November 22, 2013 Somerset plat void, the Board further finds Respondent correctly considered subject a single parcel for purposes of assessment.

Appellant argued the county assessor has no authority to determine the validity of a filed plat and therefore should have recognized and assessed subject as an eighteen (18) lot subdivision. Whether the assessor has authority to evaluate the veracity or validity of a recorded ownership instrument is not for this Board to decide. What is clear, however, is the assessor has an affirmative duty to “have prepared a *full, accurate and complete* plat record of all parcels of real property within his county . . . according to the official record thereof.” Idaho Code § 63-209. Key in this responsibility is the preparation of a “full, accurate, and complete” plat record. In the instant case, Appellant did not own subject at the time the Somerset plat was executed, as evidenced by the various quitclaim deed filings, the last one of which occurred on December 30, 2013 from Doug and Delores to Jayo Investments, Inc. Recognizing the defective Somerset plat as petitioned by Appellant would have resulted in an inaccurate plat record. Under the circumstances here, particularly where the Somerset plat was indeed found to be invalid, the Board finds no error in Respondent’s decision to assess subject as a single parcel.

We turn now to whether subject qualifies for the site improvement exemption. Idaho Code § 63-602W provides in pertinent part,

The following property is exempt from property taxation: business inventory. For purposes of this section, “business inventory” means all items of tangible personal property or other property, including site improvements, described as:

(4) Site improvements that are associated with land, such as roads and utilities, on real property held by the land developer . . . *until other improvements, such as buildings or structural components of buildings, are begun . . .* (Emphasis added).

The parties agreed site improvements on the subject parcel were in place by January 1, 2014. Based on this and satisfaction of the other basic requirements for the exemption, subject was entitled to the site improvement exemption on January 1, 2014. The exemption was lost, however, when construction on two (2) residences began pursuant to Idaho Code § 63-602Y, which reads,

(1) If any property, real or personal, which is exempted from taxation on the first day of January shall thereafter have a changed status during the year, either by change in ownership or otherwise, in a manner that if the changed status had existed on the first day of January the property would have been taxable at that time, then the property shall be assessed in the following manner: If the status changed before the first day of April, then for its full market value for assessment purposes”

The record was not clear regarding when construction of the two (2) residences commenced, however, Respondent submitted a photograph dated March 26, 2014, depicting ongoing construction of substantial structural building components. Appellant did not dispute construction of the residences began prior to April 1, 2014. Given this, the site improvement exemption was lost. And because subject was a single parcel on the assessment date rather than a multi-lot subdivision, construction of the residences caused the exemption to be lost on the entire 10.45 acres, not just the two (2) “lots” upon which the residences were being built.

“Tax exemptions exist as a matter of legislative grace, epitomizing the antithesis of traditional democratic notions of fairness, equality, and uniformity. Therefore, they are to be

construed according to the ‘strict but reasonable’ rule of statutory construction.” *Corporation of the Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v. Ada County*, 123 Idaho 410, 416, 849 P.2d 83, 86 (1993). Given the circumstances presented here, Appellant did not demonstrate clear entitlement to the site improvement exemption provided in Idaho Code § 63-602W. Accordingly, Appellant’s petition to reinstate subject’s site improvement exemption must be denied.

Based on the above, the decision of the Ada County Board of Equalization is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 8th day of April, 2015.